

Exhibit C

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

RUTH SMITH, individually and on behalf of all others similarly situated,

Plaintiff,

Case No.

VS.

1:22-cv-00081-LMB-
WEF

SUNPATH, LTD., a Massachusetts corporation.

Defendant.

DEPOSITION OF

RULE 30(b)(6) DEPOSITION OF CHUKRAN MANAGEMENT GROUP
d/b/a AMERICAN PROTECTION CORP. ("AMERICAN PROTECTION")
KOBI CHUKRAN

(Conducted Via Videoconference)

DATE: November 1, 2022

11:03 a.m. to 2:06 p.m.

PURSUANT TO: Notice by counsel for Plaintiff for purposes of discovery, use at trial or such other purposes as are permitted under the Federal Rules of Civil Procedure

REPORTED BY: Aaron T. Perkins, RMR, CRR, CRC
Notary Public, State of
Florida at Large

Pages 1 to 128

1 MR. CAFFAS: Object to form as well.
2

BY MR. SMITH:

Q. You can answer.

A. Can you repeat the question please?

Q. Yeah. So you said you received leads from various websites, from the BBB, from your website.

How do you utilize the leads? Do you use them for telemarketing? Do you -- I'm trying to understand how you reach out to these people.

MR. TANDY: I'm going to object.

MR. CAFFAS: Yeah. Object to form.

It's become a compound question.

BY MR. SMITH:

Q. You can answer.

A. Yes. The leads -- yes, we call them.

Q. Call them?

A. Yes.

Q. All right. I want to talk about your relationship with SunPath.

Can you tell me when you started working with SunPath?

A. I don't remember the exact date.

Q. Can you give me an approximate date?

A. No.

1 Q. Okay. You can't guesstimate? Has it
2 been five years, ten years?

3 A. Again, I want to make sure that I'm as
4 accurate as possible. I don't remember exactly.

5 Q. So you can't tell me at all.

6 Okay. Have you worked with them within
7 the relevant time period, which, again, is January
8 26th, 2018, to the present?

9 A. Yes.

10 Q. How did you hear about them?

11 A. I don't recall.

12 Q. When did your relationship with SunPath
13 end?

14 A. I want to say approximately six months
15 ago.

16 Q. Why did it end?

17 A. Moneys owed.

18 Q. Moneys owed from American Protection to
19 SunPath or the other way around?

20 A. Yes.

21 Q. Okay. How would you describe your
22 relationship with SunPath?

23 MR. TANDY: Objection.

24 THE WITNESS: Good.

25 BY MR. SMITH:

like an appropriate time. My apologies.

MR. SPORN: And my apologies for not introducing myself properly, but Greg is handling the deposition for us. I'm merely observing.

MR. TANDY: All good. Not a problem.

Thank you.

BY MR. SMITH:

Q. So I will go back to my question and repeat it.

Is SunPath involved in
American Protection's sales process

MR. TANDY: Again, note the objection.

MR. CAFFAS: Object to the form.

BY MR. SMITH:

Q. You can still answer the question.

A. I'm not sure I understand the question.

It's a very general question.

Q. Okay. Why don't you tell me how American Protection goes about selling vehicle service contracts.

A. Sure. We receive a lead of an interested prospect. We contact that client, and we make sure that they are qualified to receive coverage based on the year, make, and model of the

1 vehicle, as well as the mileage. Based on this
2 information, we can determine what is the best
3 coverage we can offer.

4 Q. And then once you make that
5 determination, what happens next?

6 A. Then we submit the sale to the -- to be
7 underwritten by SunPath.

8 Q. And throughout that sales process, you
9 know, you get the lead, you contact the client,
10 you see what they're qualified for, you determine
11 what's best for them, and then you reach out to
12 SunPath.

13 Is that final step, reaching out to
14 SunPath, is that where contacting SunPath would
15 come in to play or would you have contacted them
16 at some point prior?

17 MR. TANDY: Objection.

18 MR. CAFFAS: Yeah. Objection to form as
19 well. It's a compound question.

20 MR. TANDY: And I must object. To the
21 extent that you're attempting to define the
22 term sales pathway, I object to that, or
23 process. I'm sorry, Mr. Smith, but I do
24 think that's really compound.

25 MR. SMITH: That's fine.

1 Q. Okay. So let's walk through this.
2 You obtain leads from various sources;
3 is that correct?

4 A. Yes.

5 Q. Okay. And then you're going to reach
6 out to those leads to potentially sell a vehicle
7 service contract, right?

8 A. Yes.

9 Q. Okay. After you contact the potential
10 client, you're going to find out what they're
11 qualified for; is that fair to say?

12 A. Well, in some cases, the customer
13 contacts us.

14 Q. Okay. Maybe they contact you; you
15 contact them. Once you're in touch with the
16 potential customer, you determine what they're
17 qualified for?

18 A. Yes.

19 Q. Okay. How do you go about doing that?

20 A. Based on the customer's vehicle
21 characteristics, the year, make, model, and
22 mileage.

23 Q. And then what do you do with that
24 information?

25 A. We enter it into our CRM that allows us

1 June 29th, 2017; is that correct?

2 A. Yes.

3 May I ask for a quick five-minute break?

4 MR. SMITH: Of course. Yeah, let's take
5 a break.

6 (A recess was taken.)

7 MR. SMITH: Back on the record.

8 BY MR. SMITH:

9 Q. And let me share my screen again. All
10 right. Kobi, again, I'm showing you what's been
11 marked as Exhibit 2.

12 You previously testified that this is an
13 agreement between SunPath and American Protection,
14 right?

15 A. That seems to be.

16 Q. It looks like it's dated June 29th,
17 2017, right?

18 A. Yes.

19 Q. Would that have been the date that your
20 relationship with SunPath began?

21 A. Yes.

22 Q. All right. I will draw your attention
23 to the third "whereas" paragraph, where it says,
24 "Company desires to have CCM market the products
25 to customers for which CCM will be compensated as

1 set forth below."

2 Do you see that?

3 A. Yes.

4 Q. Is it fair to say that SunPath entered
5 this agreement to have American Protection sell
6 its vehicle service plans?

7 A. Yes.

8 Q. All right. And then underneath the
9 "general provisions," paragraph 1, it says, "The
10 company grants CCM authority to solicit customers
11 on a nonexclusive basis only in the territory
12 defined in Addendum B hereto."

13 Do you see that?

14 A. Yes.

15 Q. And if we scroll down to Addendum B,
16 which is on page 7 of this exhibit, it states,
17 "The geographic territory in which CCM may solicit
18 sales of products offered by the company shall be
19 exclusive and limited to all states in the
20 continental U.S. except TBD."

21 Do you see that?

22 A. Yes.

23 Q. So is this provisions just letting
24 American Protection market its products throughout
25 the U.S.?

1 "maintenance" refers to. He's not clear what
2 "maintenance" refers to in this context.

3 THE WITNESS: I'm not clear as to what
4 "maintenance" refers to.

5 BY MR. SMITH:

6 Q. Okay. Once American Protection sells
7 one of SunPath's vehicle protection plans, is
8 there a continued relationship with that client
9 that American Protection has?

10 A. Yes.

11 Q. How long would that relationship be?

12 A. For the lifetime of the agreement.

13 Q. Okay. And what would
14 American Protection's responsibilities be through
15 the lifetime of that agreement?

16 A. The customer might ask us for the
17 numbers to the claims department or might call us
18 to find out if something in particular is covered
19 within the plan.

20 Q. Okay. And we previously discussed, when
21 a contract was sold, the division of moneys from
22 American Protection to SunPath, right?

23 A. Yes.

24 Q. Now, these contracts, they're on a
25 monthly basis, right? These customers pay a

1 certain amount each month?

2 A. Yes.

3 Q. Okay. Who do they pay that amount to?

4 A. To us.

5 Q. And then does a share of that each month
6 go to SunPath or does -- or how does that work?

7 A. No.

8 MR. CAFFAS: Objection. Asked and
9 answered.

10 BY MR. SMITH:

11 Q. Go ahead.

12 A. No. SunPath bills us for a policy.

13 Q. Okay. So after a policy is sold,
14 American Protection has to pay the cost of the
15 policy to SunPath; is that fair to say?

16 A. Yes.

17 Q. How soon do they have to pay that cost?

18 A. We've at various times have had to pay
19 for the cost.

20 Q. Can you give me an estimate on the
21 amount of time that you have?

22 A. Somewhere between some months and --
23 between 30 days and more.

24 Q. Okay. And then is it fair to say that
25 it's American Protection's responsibility to

1 collect each monthly payment from those clients?

2 A. Yes.

3 Q. Okay. What happens if they cancel their
4 contract or stop paying?

5 A. Then the plan --

6 MR. CAFFAS: Object to the form.

7 THE WITNESS: Then the contract is
8 cancelled.

9 BY MR. SMITH:

10 Q. Does SunPath provide a refund of the
11 cost to American Protection then?

12 A. Yes.

13 Q. Okay. I will scroll to page 2,
14 paragraph 10. Give me one second. All right. So
15 it says, "All amounts constituting product seller
16 cost and/or net price which are received by CCM
17 shall be held in trust by CCM for the company's
18 sole benefit."

19 Do you see that?

20 A. Yes.

21 Q. Is product seller costs in this context,
22 is that the cost that you were referring to that
23 gets paid to SunPath?

24 A. Yes.

25 Q. And is net price in this context, is

really sure, Taylor, there was a question

The last question I heard was, Do you know the difference between the two entities?

Which I know the answer was no.

MR. SMITH: Right. That --

MR. TANDY: Please, ask the question

BY MR. SMITH:

Q. Do you know why there's two separate agreements governing the relationship -- --

MR. CAFFAS: Objection to --

BY MR. SMITH:

Q. -- with SunPath?

A. No, I don't.

Q. Okay.

MR. CAFFAS: Also, note my objection to speculation to that question as well.

MR. SMITH: That's all I wanted to ask with this one.

Let's take five-minute break.

(A recess was taken.)

BY MR. SMITH:

Q. Kobi, I will jump back to your telemarketing.

So you previously explained your telemarketing process. My question relates to at

1 the time you're placing calls. So at the time
2 American Protection places a call, does it know
3 which company's vehicle service plans it will be
4 pitching on the call?

5 A. No.

6 Q. Okay. Is that information determined
7 later based upon the potential client's vehicle's
8 make, model, and year?

9 A. Yes.

10 Q. Okay. And can you tell me what portion
11 of your business is generated through
12 telemarketing?

13 MR. CAFFAS: I will object as to vague.
14 I don't believe telemarketing has been
15 established definition-wise.

16 THE WITNESS: I'm not sure what you mean
17 by "telemarketing," as well.

18 BY MR. SMITH:

19 Q. When you place calls to potential
20 clients to sell products, that would be
21 telemarketing. So I need to understand how much
22 of your business comes from telemarketing
23 activities.

24 A. So if I send out the postcard to a
25 customer and they call us to request information

1 other than what was previously produced?

2 A. No.

3 Q. Okay. Does American Protection ever
4 obtain a listing of numbers registered on the DNC
5 Registry?

6 A. Yes.

7 Q. How often does it obtain that list?

8 A. That is provided to us by any lead
9 providers in this case. So, in other words, if
10 we -- any kind of leads that we acquire are
11 cleansed and cleaned and suppressed against the
12 National Do Not Call List.

13 Q. Okay. After American Protection
14 receives those leads, does it take any steps to
15 ensure that it's not calling numbers that are in
16 those leads that are registered on the National Do
17 Not Call Registry?

18 A. We run those against our internal DNC
19 lists.

20 Q. Just your internal DNC list?

21 A. Yes.

22 Q. Not the National DNC List?

23 A. Not -- no. It's already done by the
24 lead providers.

25 Q. Okay. Does American Protection maintain

1 records of prior express consent from the
2 individuals that it places calls to?

3 A. No.

4 Q. How does American Express [sic] ensure
5 that the individuals that it's placing calls to
6 provided prior express consent?

7 MR. CAFFAS: I will object to this as
8 vague. I believe you just asked about
9 American Express. I assume you're not
10 talking about the credit card company.

11 MR. SMITH: Did I say American Express?

12 MR. CAFFAS: Yes.

13 MR. SMITH: Strike that.

14 BY MR. SMITH:

15 Q. How does American Protection ensure that
16 individuals that it's placing calls to have
17 provided prior express consent?

18 A. We review the method of which they
19 request information.

20 Q. So can you say that again?

21 A. We review the method of which they have
22 requested information.

23 Q. What do you mean by that?

24 A. I mean I review to make sure that the
25 proper opting language is present, that our name

1 are you able to figure out the source of that
2 contact information, where it came from?

3 A. In some cases I could, and in some cases
4 I can't.

5 Q. Okay. What about in the plaintiff's
6 situation?

7 A. What about it?

8 Q. You previously said that
9 American Protection sent a mailing to her; is that
10 correct?

11 A. Yes.

12 Q. Do you know where it got her contact
13 information prior to sending that mailing?

14 A. I do not, no.

15 Q. Did you search for that information?

16 A. Yes.

17 Q. What repositories were searched?

18 A. Our CRM.

19 Q. CRM.

20 Does SunPath ever provide leads to
21 American Protection?

22 A. No.

23 Q. All right. I will pull up my next
24 exhibit.

25 (Exhibit No. 7 was marked for

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1 record?

2 THE COURT REPORTER: Back on the record, sir.

3 Thank you.

4 MR. SMITH: All right.

5 BY MR. SMITH:

6 Q. I'm going to re-ask that question, Kobi.

7 Does American Protection have any records of
8 the actual inbound or outbound calls to Plaintiff?

9 A. No.

10 Q. Okay. Does American Protection have any other
11 documents in its possession related to Plaintiff that
12 have not been produced?

13 A. No.

14 Q. Does American Protection have any record of
15 Plaintiff providing any prior express written consent?

16 A. I'm sorry. What -- what was the question
17 again?

18 Q. Yeah. Does American Protection have any record
19 of Plaintiff providing any prior express written
20 consent?

21 MR. CAFFAS: I'm going to object to the
22 vagueness of that question. Prior express written
23 consent, to what?

24 MR. TANDY: I will join.

25 BY MR. SMITH:

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1 Q. You can answer.

2 A. No.

3 Q. Does American Protection have any policies or
4 procedures to ensure compliance with the Virginia
5 Telephone Privacy (sic) Act?

6 A. Everything has been provided to you.

7 Q. Okay. Other than the documents that have been
8 provided, does American Protection have any policies or
9 procedures to ensure compliance with the Virginia
10 Telephone Privacy Act?

11 A. No.

12 Q. Okay. And does American Protection have any
13 specific policies or procedures that relate to
14 compliance with the Virginia Telephone Privacy Act?

15 A. No.

16 Q. Prior to this lawsuit, did you have -- were you
17 aware of the Virginia Telephone Privacy Act?

18 A. No.

19 Q. Okay. I want to go through calls to Plaintiff
20 briefly and ask you questions about them.

21 So Plaintiff alleges, on May 26th, 2020, that
22 she received two calls, and the caller ID was a
23 410-844-6327.

24 Do you know if American Protection has ever
25 utilized that number to place calls?

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1 MR. SMITH: Objection. Asked and answered.
2

3 THE WITNESS: No.
4

5 BY MR. CAFFAS:
6

7 Q. Have you ever inquired about those types of
8 sales and -- to SunPath and been told you weren't
9 permitted to sell those types of products?
10

11 A. I don't recall.
12

13 Q. I am now clicking over to the "Services" tab of
14 American Protection Corp's website.
15

16 Do you see where it says "Our Partners" on the
17 left side of the screen?
18

19 A. Yes.
20

21 Q. Okay. And can you describe the -- the names of
22 the partners that are listed?
23

24 A. Yes.
25

Q. Can you read them off for me?
A. Royal, Marathon, SunPath, Interstate.
Q. Okay. And are all those --
Are those all separate companies?
A. Yes.
Q. Do you know what kind of products or services
those companies are -- or provide?
A. Vehicle service contracts and home service
contracts.
Q. Okay. And have you sold those companies'

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1 based on what the consumer's needs would be, correct?

2 A. Correct.

3 Q. Okay. So, for example, there would have been a
4 time when you were able to offer a con -- a consumer a
5 SunPath product or a Marathon product, for example,
6 based on whatever that consumer's vehicle was?

7 MR. SMITH: Objection. Asked and answered.

8 THE WITNESS: Since we haven't talked with
9 Marathon or Interstate in many years, the answer is
10 no. Because when we worked with SunPath, we mostly
11 sold SunPath products. Royal is just a recent
12 addition to our -- to our products.

13 So the -- that's why I'm saying -- that's why
14 I'm saying no.

15 (Pause in the proceedings.)

16 BY MR. CAFFAS:

17 Q. Okay. I am going to go back to something you
18 had discussed on the first day of your deposition
19 testimony. You were describing the process of how
20 American Protection subcontractors would be connected to
21 potential customers.

22 And I believe you said they would be connected
23 to the customer, and then the first step is that the
24 American Protection subcontractor would introduce
25 themselves to the potential customer, correct?

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1 MR. SMITH: Objection.

2 THE WITNESS: Yes.

3 MR. SMITH: Misstates the witness's testimony.

4 Calls for speculation.

5 BY MR. CAFFAS:

6 Q. You can answer, Mr. Chukran.

7 A. Yes.

8 Q. And then under the next steps, in Discovery, is
9 it correct that American Protection then asks for the
10 year, make, and model of the potential customer's
11 vehicle?

12 A. Yes.

13 Q. And then asks for how many miles, if they're
14 the original owner, and the year -- excuse me -- how
15 many miles they drive in a year, correct?

16 A. Yes.

17 Q. And what is the purpose for them asking that
18 information?

19 A. To determine what's the best type of coverage
20 that's available based on the mileage and to make sure
21 the car actually -- the vehicle actually qualifies for
22 coverage.

23 Q. So is it accurate then that, when an
24 American Protection subcontractor begins the call, and
25 before he or she learns that information from the

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1 customer, that they aren't aware what product they're
2 going to be offering to the customer?

3 A. Yes.

4 Q. And that -- the product that they're going to
5 be offering the customer, that is determined by entering
6 that information in to the Inline Customer Relation
7 Management System, correct?

8 A. Yes.

9 Q. So it's determined automatically, without any
10 input from the subcontractor?

11 A. I'm sorry. What is your question?

12 Q. So the subcontractor doesn't pick and choose;
13 the system might spit out whatever company's products
14 just works best with the customer's vehicle, right?

15 A. The subcontractor has access to a number of
16 different plans. So, for example, SunPath might offer a
17 higher level of coverage versus a lower level of
18 coverage.

19 Q. Okay. So it could be a SunPath plan versus
20 another company's plan, if another company's plan
21 offered better coverage?

22 A. Potentially.

23 Q. And, again, the subcontractor on the call
24 wouldn't know that prior to the customer providing their
25 information for their vehicle on the call, right?

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1 American Protection has never spoofed any telephone
2 number associated with First Citizens Bank, to your
3 knowledge?

4 A. Yes.

5 Q. Does -- strike that.

6 Does American Protection subscribe to the
7 reg- -- the Federal Do Not Call Registry?

8 A. Not at this time, no.

9 Q. Why? Why not?

10 A. Our subscription expired.

11 Q. And does AP --

12 Or at what time did it subscribe to the Do Not
13 Call Registry?

14 A. I don't have the exact dates.

15 Q. Would it be --

16 Would it have been within the past year that
17 your subscription expired?

18 A. No.

19 Q. Can you give me a ballpark of when the
20 subscription would have expired?

21 A. I believe a couple of years.

22 Q. Okay. And in that time, did AP intentionally
23 make calls to consumers --

24 A. No.

25 Q. -- on the Do Not Call Registry?